

CHAPTER 14 HEALTH-CARE ASSISTANCE REIMBURSEMENT

1400 RIGHT TO REIMBURSEMENT

- 1400.1 Whenever the District provides health-care assistance to a beneficiary who has suffered an injury or illness under circumstances that would have created a liability upon a third party had the beneficiary instead of the District incurred the expense of the health-care assistance, the District shall have an independent, direct cause of action against that third party for the unreimbursed value and/or cost of the health-care assistance provided.
- 1400.2 As soon as the District begins providing health-care assistance to a beneficiary, it shall become subrogated to any right or claim that the beneficiary has against a third party for the care and treatment it has undertaken to provide or pay for as health-care assistance. Alternatively, or in addition to the legal subrogation effected under this subsection, the Department may require a beneficiary to execute a written assignment of that same right or claim.
- 1400.3 In determining the unreimbursed value of health and health related care and treatment that the District undertakes to provide directly to a beneficiary, the Department shall refer directly to the agency or institution which rendered service to determine health or health-related cost for care and treatment.

1401 NOTICE OF KNOWN OR SUSPECTED THIRD-PARTY LIABILITY

- 1401.1 Any individual or institutional health-care provider that bills the District for health-care assistance furnished to a beneficiary shall provide the Department with written notice of any known or suspected third-party liability as soon as the health-care provider acquires knowledge of or suspects the existence of such liability.
- 1401.2 The written notice shall include the following:
- (a) The beneficiary's name, address, social security number, and Medicaid recipient number, if any;
 - (b) The name, address, and telephone number of the other person(s) involved in the incident, if any; and
 - (c) A description of the incident causing the injury or illness, including the date and location.

1401 NOTICE OF KNOWN OR SUSPECTED THIRD-PARTY LIABILITY (Continued)

- 1401.3 A beneficiary, or if represented, the beneficiary's attorney, shall provide the Department with written notice of any known or suspected third-party liability before taking any steps to recover damages or costs arising from an incident involving the third party.
- 1401.4 The written notice shall include the following:
- (a) The beneficiary's name, address, social security number, and Medicaid recipient number, if any;
 - (b) The name, address, and telephone number of the beneficiary's attorney, if any;
 - (c) The name, address, and telephone number of the third party;
 - (d) The name, address, and telephone number of the third party's attorney, if known;
 - (e) The name, address, and telephone number of the third party's insurer, if known;
 - (f) The name, address, and telephone number of beneficiary's insurer, if known; and
 - (g) A description of the incident causing the injury or illness, including the date and location.
- 1401.5 Upon receipt of a written notice of known or suspected liability of a third party pursuant to §§1401.1, 1401.2, 1401.3, and 1401.4, the Department shall immediately send a copy of the written notice to the Corporation Counsel, together with information concerning the dollar amount or monetary value of health-care assistance provided to or paid for on behalf of the beneficiary by the District.
- 1401.6 If the beneficiary separately institutes a proceeding against or settlement negotiations with a third party, the beneficiary or if represented, the beneficiary's attorney shall inform the third party that the District also has a claim, and shall give the Corporation Counsel written notice of the action or settlement negotiations, by personal service or certified mail, within twenty (20) calendar days.
- 1401.7 If a court proceeding has been instituted, proof of timely notice shall be filed with the court.

1402 ENFORCEMENT OF RIGHT TO REIMBURSEMENT

- 1402.1 In enforcing the District's right to reimbursement, the Corporation Counsel may, on behalf of the District, do the following:
- (a) Institute and prosecute a proceeding either alone, in the District's own or the beneficiary's name, or in conjunction with the beneficiary;
 - (b) Intervene or join in any proceeding brought by the beneficiary;
 - (c) Compromise or settle and execute a release of the District's claim against a third party; or
 - (d) Permit the beneficiary to proceed on behalf of the District in prosecuting, in conjunction with his or her own claims, the District's claim for the unreimbursed value or cost of the health-care assistance provided.
- 1402.2 If the District separately institutes a proceeding against or settlement negotiations with a third party, the Corporation Counsel shall give the beneficiary, or if represented, the beneficiary's attorney, written notice of the action or settlement negotiations, by personal service or certified mail, within twenty (20) calendar days.
- 1402.3 If a court proceeding has been instituted, proof of timely notice shall be filed with the court.
- 1402.4 If the beneficiary has not instituted or proceeded to trial in a separate proceeding or executed a settlement agreement with the third party, the written notice served or mailed pursuant to §1402.2 shall also advise the beneficiary of the beneficiary's right to intervene or join in the proceeding instituted by the District and of the beneficiary's right to retain private counsel.

§1403 RESERVED

1404 PERFECTION AND PAYMENT OF LIEN

- 1404.1 The District shall have a lien, perfected in accordance with §1404.3, upon any judgment or settlement awarded or executed in favor of a beneficiary against a third party for that amount of the judgment or settlement that represents the care and treatment it has undertaken to provide or pay for as health-care assistance.

- 1404.2 After a third party deducts a beneficiary's litigation costs and reasonable attorney's fees, a third party who is aware that the District might have a claim for reimbursement for health care assistance provided to or paid for on behalf of the beneficiary shall not satisfy the remainder of a judgment or settlement awarded to or executed in favor of the beneficiary without first giving the Corporation Counsel both written notice of the judgment or settlement and thirty (30) calendar days from the date the written notice is received by the Corporation Counsel to determine the appropriateness of a lien, and if appropriate, to perfect the lien.
- 1404.3 To perfect a lien under the Health-Care Assistance Reimbursement Act of 1984, the Corporation Counsel shall do the following:
- (a) File in the Office of the Recorder of Deeds, in a docket provided for this type of lien, a written notice containing the beneficiary's name and address, the approximate date and location of the incident that caused or allegedly caused the beneficiary's injury or illness, and the name of the third party; and
 - (b) Provide by personal service or certified mail a copy of the written notice of lien, together with a statement of the date of filing to the beneficiary directly or in care of the beneficiary's attorney, if any, the third party, directly or in care of the third party's attorney, if an and, if ascertained by the Corporation Counsel, the insurance company which has insured the beneficiary or third party against liability.
- 1404.4 If, after receiving a notice of lien under §1404.3, a beneficiary, third party, or an insurer disposes of funds covered by a lien without paying the District the amount of its lien that could have been satisfied from those funds after paying off any prior liens, the Corporation Counsel may, on behalf of the District, institute a civil action against that beneficiary, third party, or insurer, within one (1) year from the date that the funds were improperly disposed of, to recover any amount the District is otherwise unable to recover because of the improper disposition of funds.
- 1404.5 If the beneficiary prosecutes a claim in a proceeding or conducts settlement negotiations on behalf of the District and incurs a personal liability for litigation costs or attorney's fees, the Corporation Counsel shall determine in good faith what, if any, contribution to those costs and fees would be appropriate, and that contribution, if any, shall be subtracted from the amount of the lien.
- 1404.6 If payment of the lien does not fully reimburse the District for the cost of the health-care assistance provided to or paid for on behalf of a beneficiary, the District may recover the outstanding balance by continuing to prosecute an existing proceeding or by instituting a separate proceeding against the third party.

1405 WAIVER OF RIGHT TO REIMBURSEMENT

- 1405.1 The Corporation Counsel may waive, in whole or in part, enforcement of the District's claim against a third party if enforcement in a particular case would not be cost effective or would result in undue hardship to the beneficiary, including any dependents or survivors of the actual recipient of health-care assistance.
- 1405.2 If waiver is based on the avoidance of undue hardship, the Corporation Counsel may in addition void the legal subrogation or assignment effected pursuant to §1400.2.
- 1405.3 In determining whether and to what extent reimbursement should be sought or awarded under the Health-Care Assistance Reimbursement Act of 1984, the Corporation Counsel shall give due consideration to the extent of the beneficiary's injuries and his or her current and future needs, including the current and future needs of any dependents or survivors of the actual recipient of health-care assistance.

1499 DEFINITIONS

- 1499.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Beneficiary - any individual who has received health-care assistance from the District and, if applicable, that individual's guardian, conservator, personal representative, estate, dependents, and survivors.

Corporation Counsel - the Corporation Counsel of the District of Columbia.

Department - the D.C. Department of Human Services.

Health-care assistance - the health or health-related care and treatment that the District has undertaken to provide free-of-charge or a discounted rate, or to pay for through Medicaid or the Medical Charities Program, or any other program and includes future care and treatment that the Department reasonably anticipates will be provided or paid for by the District. The term "Health-care assistance" includes, but shall not be limited to, medical, surgical, nursing, dental, hospital, nursing home, hospice and home care, prostheses and medical appliances, physical and occupational therapy, counselling and psychotherapy, social work, related transportation costs, and funeral and burial expenses.

1499 DEFINITIONS (Continued)

1499.1 (Continued)

Third party - a third-party tortfeasor, beneficiary's insurer, or any other individual, organization, or entity, that is or may be liable to a beneficiary, in tort or contract, for all or part of the care and treatment the District has undertaken to provide or pay for as health-care assistance.

Unreimbursed value of health care assistance - the value or cost of the health and health-related care and services provided directly or through contract to the beneficiary by the District of Columbia.